

Roger L. Tarbutton (RT-9000)
Assistant Johnson County Counselor
Johnson County Legal Department
111 S. Cherry, Suite 3200
Olathe, KS 66061-3441
(913) 715-1900
Fax (913) 715-1873
Counsel for the Board of County Commissioners
Johnson County, Kansas

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

IN RE:)	
)	
DELPHI CORPORATION,)	Chapter 11
<u>et al.</u>)	Case No. 05-44481 (RDD)
)	
)	
)	
Debtors)	(Jointly Administered)

**RESPONSE OF JOHNSON COUNTY, KANSAS, TO DEBTOR'S THIRTEENTH
OMNIBUS OBJECTION TO CLAIMS**

Comes now the Board of County Commissioners of Johnson County, Kansas (the "Board") by and through counsel, and files its response to Debtors' Thirteenth Omnibus Objection (Substantive) Pursuant to 11 U.S.C. § 502(b) and Fed. R. Bankr. P. 3007 to Certain (A) Insufficiently Documented Claims, (B) Claims not Reflected on Debtors Books and Records, (C) Protective Insurance Claims, (D) Insurance Claims not Reflected on Debtors' Books and Records, (E) Untimely Claims and Untimely Tax Claims, and (F) Claims Subject to Modification, Tax Claims Subject to Modification, and Claims Subject to Modification and Reclamation Agreement (the "Objection"). In support of its Response, the Board states as follows:

- 1.) The Board is the governing body of Johnson County, Kansas, a political subdivision of the state of Kansas pursuant to K.S.A. § 19-101.
- 2.) On October 8 and 14, 2005, (the "Petition Date") Delphi Corporation and certain of its subsidiaries and affiliates (the "Debtors") filed voluntary petitions in this Court for reorganization relief under Chapter 11 and title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended (the "Bankruptcy Code"). The Debtors continue to operate their businesses and manage their properties as debtors-in-possession under the Bankruptcy Code Sections 1107 (a) and 1108. The Court has ordered joint administration of these cases.
- 3.) Delphi Automotive Systems LLC (one of Debtor's bankrupt entities) owns two real estate parcels (Parcel Nos. DF231335-4001 and DF231335-4057) in Johnson County, Kansas (hereinafter referred to as the "Property"), both of which were assessed ad valorem real estate taxes for tax year 2005. Pursuant to K.S.A. § 79-503a, the real estate was appraised as of January 1, 2005, and the taxes became due and payable on November 1, 2005. Pursuant to K.S.A. 79-1804 a statutory tax lien securing payment of the 2005 taxes attached to the Property on November 1, 2005. A copy of K.S.A. §79-1804 is attached hereto as Exhibit "A". Pursuant to K.S.A. §79-1804 and K.S.A. §79-419, Johnson County's tax lien primes all other liens against the Property. Although the lien did not attach until after the Petition Date, 11 U.S.C. §362(b)(18) provides that the creation or perfection of a statutory tax lien securing payment of an ad valorem tax or special assessment imposed by a governmental unit is not subject to the automatic stay and may attach post-petition.
- 4.) Johnson County filed its secured claim for the balance due on the Debtors 2005 ad valorem real estate taxes in the amount of \$112,252.16 with the Debtors claim agent on

January 10, 2006, and noted the secured status of its claim and the statutory basis thereof on the face of the claim. A file stamped copy of the claim is attached hereto as Exhibit "B".

According to information and belief, Johnson County's claim was assigned Claim No. 1502 by the Clerk of the Court.

5.) On or about May 8, 2006, the Debtors made a payment in the amount of \$14,792.92 to Johnson County for its 2005 real estate tax obligations. A copy of the payment received and of the receipt issued on May 17, 2006, is attached hereto as Exhibit "C". Application of that payment reduced the principal balance due and owing for Debtors 2005 real estate tax claim to the sum of \$97,459.24. Pursuant to K.S.A. 2006 Supp. §79-2004(a), statutory interest is accruing on the unpaid balance of the claim.

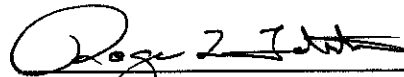
6.) Debtors' Objection includes Claim No. 1502 on Exhibit E-2 within the category "Tax Claims Subject to Modification" and indicates it should be reclassified as an unsecured claim in the amount of \$97,459.24. Although Johnson County agrees the unpaid principal balance of the 2005 real estate taxes for the Property is \$97,459.24, Johnson County does not agree its claim is unsecured. Pursuant to Butner v. United States, 440 U.S. 48, 99 S. Ct. 914 (1979), non-bankruptcy law governs underlying obligations of the bankruptcy estate and Kansas law must be applied to determine the secured status of Johnson County's Claim. The Debtors' Objection offers no basis or reasoning whatever supporting its contention that Johnson County's claim is unsecured and such contention is clearly not warranted under Kansas law. Nor does the Objection allege that Johnson County's claim lacks sufficient supporting documentation. Procedural due process dictates that Johnson County is not required to speculate concerning the basis of Debtors' Objection in order to frame an adequate response. Johnson County's claim is entitled to a presumption of prima

facie validity pursuant to Bankruptcy Rule 3001(f) and should be allowed as a secured claim as a matter of law.

7.) In the unlikely event Johnson County's claim is determined to be unsecured, the claim is in any event entitled to be classified as a priority claim pursuant to 11 U.S.C. § 507(a) (8) (B), or as an administrative expense claim pursuant to 11 U.S.C. § 503 (b)(1)(B)(i) and not as an unsecured claim.

WHEREFORE PREMISES STATED, the Board prays that its claim be allowed as a secured claim in the principal amount of \$97,459.24 plus interest accruing at the statutory rate as provided under Kansas law and for such further and additional relief as the Court determines equitable.

Respectfully submitted,



Roger L. Tarbutton (RT 9000)
Assistant Johnson County Counselor
Johnson County Legal Dept.
111 S. Cherry St., Suite 3200
Olathe, KS 66061-3441
(913) 715-1900
Fax (913) 715-1873
ATTORNEY FOR JOHNSON COUNTY
BOARD OF COUNTY COMMISSIONERS

CERTIFICATE OF SERVICE

I, Roger L. Tarbutton, hereby certify that the above and foregoing **RESPONSE OF JOHNSON COUNTY, KANSAS, TO DEBTOR'S THIRTEENTH OMNIBUS OBJECTION TO CLAIMS** was deposited postage prepaid in the United States mail on May 11th, 2007, to the following addresses:

Delphi Corporation
Attn: General Counsel
5725 Delphi Dr.
Troy, MI 48098

Skadden, Arps, Slate, Meagher & Flom LLP
Attn: John Wm. Butler, Jr., John K. Lyons,
Joseph N. Wharton
333 West Wacker Dr., Suite 2100
Chicago, IL 60606

Honorable Robert D. Drain
United States Bankruptcy Judge
United States Bankruptcy Court for the
Southern District of New York
One Bowling Green, Room 610
New York, New York 10004



Roger L. Tarbutton (RT9000)



Kansas Legislature

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79-1804

Chapter 79.--TAXATION

Article 18.--LEVY OF TAXES

79-1804. When tax due; lien on real property. All taxes shall be due on the first day of November of each year. A lien for all taxes shall attach to the real property subject to the same on the first day of November in the year in which such tax is levied, and such lien shall continue until such taxes and penalty, charges and interest which may have accrued thereon, shall be paid by the owner of the property or other person liable to pay the same: *Provided*, That in the event fee title to such property shall be acquired on or after the first day of January in any year and before the first day of November in such year by the United States government by purchase, condemnation or otherwise or shall be acquired by purchase, condemnation or otherwise for use exclusively for state, county, municipal, literary, educational, scientific, religious, benevolent or charitable purposes, then the taxes shall become due immediately upon such property and a lien for such taxes shall attach to all such real estate prior to its being so conveyed or acquired, said taxes to be computed upon the basis of the levy for the year last preceding in which such property is so conveyed or acquired, and the amount of tax due shall be that proportion of the full year's tax as the period of the year to the date of the possession of such real property is taken under such condemnation proceedings or conveyance bears to the full year.

The county clerk shall immediately compute such taxes and certify the same to the county treasurer who shall proceed to collect such taxes as provided by law: *Provided further, however*, When property is acquired by condemnation proceedings the county treasurer shall certify the amount of the taxes to the court having jurisdiction of the condemnation proceedings in order that the notice may be served upon the lien holders as provided by law; the county attorney may also collect the amount of such taxes by civil action against the persons liable therefor.

History: L. 1876, ch. 34, § 85; R.S. 1923, 79-1804; L. 1949, ch. 467, § 1; L. 1959, ch. 365, § 28; June 30.

B

RECEIVED

FORM B10 (Official Form 10) (04/04)

UNITED STATES BANKRUPTCY COURT SOUTHERN DISTRICT OF NEW YORK

PROOF OF CLAIM 2006

Name of Debtor
Delphi Automotive Systems LLC

Case Number
05-44640

JO CO LEGAL DEPT

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Name of Creditor (The person or other entity to whom the debtor owes money or property):

Board of County Commissioners of
Johnson County, Kansas

Name and Address where notices should be sent:

Johnson County Legal Department
Johnson County Administration Building
111 South Cherry Street, Suite 3200
Olathe, Kansas 66061-3441

Telephone Number: (913) 715-1900

- ☐ Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
- ☐ Check box if you have never received any notices from the bankruptcy court in this case.
- ☐ Check box if the address differs from the address on the envelope sent to you by the court.

Account or other number by which creditor identifies debtor:

Check here ☐ replaces ☐ amends a previously filed claim dated _____

1. Basis for Claim

- ☐ Goods sold
- ☐ Services performed
- ☐ Money loaned
- ☐ Personal injury/wrongful death
- ☒ Taxes (real estate)
- ☐ Other

- ☐ Retiree benefits as defined in 11 U.S.C. § 1114(a)
- ☐ Wages, salaries, and compensation (fill out below)
- Your SS #: _____
- Unpaid compensation for services performed from _____ to _____ (date) (date)

2. Date debt was incurred: 2005

3. If court judgment, date obtained: N/A

4. Total Amount of Claim at Time Case Filed: \$ _____ 112,252.16 (unsecured) (secured) (priority) 112,252.16 (Total)

If all or part of your claim is secured or entitled to priority, also complete Item 5 or 7 below.

☐ Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of all interest or additional charges.

5. Secured Claim. \$112,252.16

☒ Check this box if your claim is secured by collateral (including a right of setoff). K. S. A. 79-1804

Brief Description of Collateral:

☒ Real Estate ☐ Motor Vehicle ☐ Other _____

Value of Collateral: \$4,435,760.00

Amount of arrearage and other charges at time case filed included in secured claim, if any: \$N/A

6. Unsecured NonPriority Claim \$ _____

☐ Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority

7. Unsecured Priority Claim.

- ☐ Check this box if you have an unsecured priority claim.
- Amount entitled to priority \$N/A
- Specify the priority of the claim:
- ☐ Wages, salaries, or commissions (up to \$4,925), *earned within 90 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507 (a)(3).
- ☐ Contributions to an employee benefit plan - 11 U.S.C. § 507 (a)(4).
- ☐ Up to \$2,225* of deposits toward purchase, lease or rental of property or services for personal, family, or household use - 11 U.S.C. § 507 (a)(6).
- ☐ Alimony, maintenance, or support owed to a spouse, former spouse, or child - 11 U.S.C. § 507 (a)(7).
- ☐ Taxes or penalties owed to governmental units - 11 U.S.C. § 507 (a)(8).
- ☐ Other - specify applicable paragraph of 11 U.S.C. § 507 (a)(_____).

*Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

8. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim.

9. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.

10. Date-Stamped Copy: To receive an acknowledgment of filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.

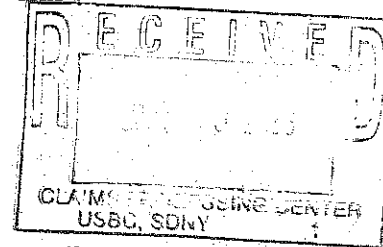
Date

1/4/05

Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any):

Roger L. Tarbuton, Assistant County Counselor

THIS SPACE IS FOR COURT USE ONLY



Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.

Real Estate Tax Bill
Pg 10 of 15

Johnson County Treasurer
111 S. Cherry St., Suite 1500
Olathe, KS 66061
<http://treasurer.jocogov.org>

Property Number: DF231335-4001
Bill Number: 11050049719
Situation Address: 400 W DENNIS AVE
Tax District: 0008
Class: C
Land Assessed Value: 563,323
Improvement: 387,100

DELPHI AUTOMOTIVE SYSTEMS LLC

PO BOX 5082
TROY MI 48007-5082

Appraised Agricultural Use Acreage: 0.00
Legal: 35-13-23 W 57 A SE1/4 W OF RR
EX 2.26 A & ALL LTS 28 & 29 &
S 1/2 23 VAC OFF & HAW EX
2.008 AC & EX 23.5 AC 37.232
AC & 2-14-23 PT N 1/2 BG INT
W/L RR W 1060.13' S 418.79' E
846.27' NE 456.13' EX .833 AC
IN ST 8.337 ACS M/L
OLC 308

Tax Year	Appraised Value	Assessed Value	Mill Levy	Mill Levy Tax
2005	3,801,690	950,423	123.7640	\$ 117,628.15

Non-Mill Levy	Amount Paid	Half Due	Full Due	Interest Due	Penalty Due
\$ 0.00	\$ 13,696.43	\$ 45,117.65	\$ 103,931.72	\$ 0.00	\$ 0.00

DISCOVER CARD AUTHORIZATION ONLY
TRANSACTION FEE SCHEDULE
TRANS. FEE AMOUNT



.01-200.00 \$ 3.00
200.01-500.00 \$ 4.00
500.01-1000.00 \$ 9.00
1000.01-2000.00 \$ 18.00
2000.01 AND UP \$ 25.00

Cardmember Number

6011- - - - -

Expiration Date: - / - / -

Cardmember Signature: _____

Phone Number: _____

Tax Payment
\$
Transaction Fee
\$
Total Charges
\$

Property Number: DF231335-4001

Signature is required to process payment. Transaction Fee will be automatically imposed if not included.
Please submit this form with your payment if using Discover.

/050049719/

RETURN THIS PORTION WITH PAYMENT

IF ADDRESS CHANGE, FILL OUT AND RETURN WITH PAYMENT

Address Change

Name: _____

Address: _____

City: _____

State: _____ Zip: _____

Phone Number: _____

Real Estate Tax Bill

Property Number: DF231335-4001

Amount Due as of: 12/28/2005

Half Payment	Full Payment
\$ 45,117.65	\$ 103,931.72
Amount Enclosed:	

REMIT PAYMENT TO:

JOHNSON COUNTY TREASURER
PO BOX 2902
SHAWNEE MISSION KS 66201-1302

06144 0 11050049719 0004511765 0010393172 0000000000 0000000000 4

Real Estate Tax Bill



Johnson County Treasurer
111 S. Cherry St., Suite 1500
Olathe, KS 66061
<http://treasurer.jocogov.org>

Property Number: DF231335-4057
Bill Number: 11051516919
Situation Address: 0 NS NT
Tax District: 0008
Class: V Land Assessed Value: 76,088 Improvement: 0.00

DELPHI AUTOMOTIVE SYSTEMS LLC

PO BOX 5082
TROY MI 48007-5082

Appraised Agricultural Use Acreage: 0.00
Legal: 35-13-23 BG NW CR SE1/4 E
567.09' S 250' E 350' TO PT W
RW/L RR S 6' W 20' S 972' W TO
W/L SE1/4 N 1228' TO POB 23.5
ACS M/L OLC 308 2

Tax Year	Appraised Value	Assessed Value	Mill Levy	Mill Levy Tax
2005	634,070	76,088	123.7640	\$ 9,416.93

Non-Mill Levy	Amount Paid	Half Due	Full Due	Interest Due	Penalty Due
\$ 0.00	\$ 1,096.49	\$ 3,611.98	\$ 8,320.44	\$ 0.00	\$ 0.00

DISCOVER CARD AUTHORIZATION ONLY
TRANSACTION FEE SCHEDULE
TRANS. FEE AMOUNT



.01-200.00 \$ 3.00
200.01-500.00 \$ 4.00
500.01-1000.00 \$ 5.00
1000.01-2000.00 \$ 16.00
2000.01 AND UP \$ 25.00

Cardmember Number

6011- - - - -

Expiration Date: / /

Cardmember Signature: _____

Phone Number: _____

Tax Payment
\$
Transaction Fee
\$
Total Charges
\$

Property Number: DF231335-4057

Signature is required to process payment. Transaction Fee will be automatically imposed if not included.
Please submit this form with your payment if using Discover.

/051516919/

RETURN THIS PORTION WITH PAYMENT

IF ADDRESS CHANGE, FILL OUT AND RETURN WITH PAYMENT

Address Change

Name: _____

Address: _____

City: _____

State: _____ Zip: _____

Phone Number: _____

Real Estate Tax Bill

Property Number: DF231335-4057

Amount Due as of: 12/28/2005

Half Payment	Full Payment
\$ 3,611.98	\$ 8,320.44
Amount Enclosed:	

REMIT PAYMENT TO:

JOHNSON COUNTY TREASURER
PO BOX 2902
SHAWNEE MISSION KS 66201-1302

06144 0 11051516919 0000361198 0000832044 0000000000 0000000000 2

C

DELPHI

May 8, 2006

Johnson County Treasurer
111 South Cherry Street, Ste 1500
Olathe, KS 66061

RE: Delphi Automotive Systems LLC
Account No(s): DF231335-4001 & DF231335-4057

To Whom It May Concern:

Enclosed is a copy of the above referenced tax bill(s) for property taxes for the tax year 2005; together with Delphi Automotive Systems LLC ["Delphi"], Check No. 90553025 in the amount \$14,797.92 tendered in partial payment of the billed amount.

On October 8, 2005, Delphi filed voluntary petitions for reorganization under Chapter 11 of the Federal Bankruptcy Code. As such, federal law prohibits payment by Delphi for taxes billed for periods to the date of filing [Pre-petition taxes]. According to the automatic stay provision of Section 362(a) of the Bankruptcy Code, payment of pre-petition taxes is prohibited until after a plan of reorganization is accepted by our creditors, and is approved by the bankruptcy court.

As the amount of taxes billed include pre-petition taxes, in accordance with bankruptcy code requirements, the amount for which Delphi has tendered payment has been prorated to exclude the amount representing pre-petition taxes. Enclosed is a schedule that details the pro-ration amounts.

Information regarding the Delphi reorganization, including court documents, claim forms and instructions for filing a claim with the court, are located on the Delphi reorganization website, www.delphidocket.com. If you have any questions regarding this matter, please feel free to contact me directly at (248) 813-8002.

Sincerely,



Richard Colby
Tax Specialist

Enclosures

Taxpayer: Delphi Automotive Systems LLC

Tax Collector: Johnson County

Acct/Parcel No.	Total Tax	Fiscal Year	Petition Date	Pre-Petition Period	Post-Petition Period	Tax Due Amount Pre-Petition Period	Tax Due Amount Post-Petition Period
DF231335-4057	\$58,814.08	1/1/2005 - 12/31/2005	October 8, 2005	280 Days	85 Days	\$45,117.65	\$13,696.43
DF231335-4001	\$4,708.47	1/1/2005 - 12/31/2005	October 8, 2005	280 Days	85 Days	\$3,611.98	\$1,096.49
	\$63,522.55					\$48,729.63	\$14,792.92

Delphi Debtor in Possession
Disbursement Services (NB)
PO Box 62530
Phoenix, AZ 85082-2530

DELPHI

CHECK No. 900553025 50-937
213

AMOUNT
*****14,792.92

*****14,792 DOLLARS

JOHNSON COUNTY, TREASURER*
111 S CHERRY STE 1500
OLATHE KS 66061-3471

PAY
TO THE
ORDER
OF

John H. [Signature]

SIGNATURE

The Chase Manhattan Bank, N.A.
Syracuse, New York

DF231335-4057

AUG 11

900553025 021309379 60 2 5044 211

RECEIVED
MAY 18 2006
JO CO LEGAL DEPT



Payment Date: 5/17/2006
Receipt Printed: 5/17/2006
Tracking Number: 1700151

Current Personal Property

Eligible Property for Tax Credit	Assessed Value
COMM & IND MACH	2,979,400
	\$42,935.77 \$282,870.92

Current Real Estate

Property #	Tax Year	Tax	Interest	Fees	Prior Payments	Amount Paid	Balance Due
DF231335-4001	2005	\$117,628.15	\$0.00	\$0.00	\$13,696.43	\$13,696.43	\$90,235.29
DELPHI AUTOMOTIVE SYSTEMS LLC 400 W DENNIS AVE OLATHE							
DF231335-4057	2005	\$9,416.93	\$0.00	\$0.00	\$1,096.49	\$1,096.49	\$7,223.95
DELPHI AUTOMOTIVE SYSTEMS LLC NS NT OLATHE							
						\$14,792.92	\$97,459.24

TOTAL	\$57,728.69	\$380,330.16
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